



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

TM/WK
F.#2008R00119

271 Cadman Plaza East
Brooklyn, New York 11201

August 7, 2012

BY ECF

The Honorable Nicholas G. Garaufis
United States District Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: United States v. Anthony Donato
Criminal Docket Nos. 03-929 & 05-060 (NGG)
Civil Docket No. 11-4542(NGG)

Dear Judge Garaufis:

The government respectfully submits this letter in response to Anthony Donato's motion for return of seized property (Docket 11-CV-4542, Docket Entry No. 1) and his related July 12, 2012 Motion for Summary Judgment (Docket Entry No. 5). For the reasons set forth herein, the government respectfully requests that the Court hold Donato's motions in abeyance for 30 days to allow the Federal Bureau of Investigation ("FBI") time to retrieve Donato's property from evidence storage, review it, and return any non-evidentiary items to Donato's wife.

By way of background, as the Court is aware, the defendant pleaded guilty in two separate cases to (1) RICO conspiracy involving predicate acts of gambling and the attempted murder of David Nunez, see United States v. Donato, 03-CR-929, and (2) the murder of Frank Santoro in aid of racketeering, see United States v. Donato, 05-CR-060. Pursuant to a plea agreement entered under Federal Rule of Criminal Procedure 11(c)(1)(C), the government and the defendant agreed that a sentence of 25 years was the appropriate disposition of those two cases. On December 16, 2008, the Court sentenced Donato principally to 300 months of imprisonment. (Docket 05-CR-060, Docket Entry No. 582).

In the instant case, the defendant requests the return of certain personal items that were inventoried and seized by the FBI on the date of his arrest. As Donato sets forth in his

motion, many items that were seized from him on the date of his arrest were promptly returned to his wife (see 11-CV-4542, Docket Entry No. 1, pp. 7-8 of 14). In addition to those items, the FBI seized and inventoried a number of additional items. (See id. at pp. 9-10 of 14). The government has reviewed the inventory of items with a Special Agent of the FBI and determined that the majority of the items appear to be of no evidentiary value, and the government thus has no objection to their return. There are certain items, however, that appear to have evidentiary value, such as certain business cards.

The FBI is in the process of retrieving all of the inventoried items from evidence and will review the property to determine which, if any, the government objects to returning to Donato's family. To facilitate that review, the government respectfully requests that the Court hold the defendant's motions in abeyance for 30 days, at which time the government will report to the Court what progress has been made with respect to the return of Donato's property.

Respectfully submitted,

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